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PTO/SB/61 (09-03)



PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)
021111-000100US

First named inventor: Sachs, Howard G.

Art Unit: 2825

Application Number: 09/840,747

Examiner: Brandon Bowers

Filed: April 23, 2001

Title: CIRCUIT GROUP DESIGN METHODOLOGIES

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

1. Petition fee



Small entity - fee \$ 55.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.



Other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of an Amendment Under 37 CFR 1.116, including a two-month extension of time and transmittal paperwork:

☒ has been filed previously on August 20, 2003, as evidenced by the U.S. Patent Office Auto-Reply Facsimile Transmission form, dated August 20, 2003, 2:37:04 p.m. (Eastern Daylight Time).

☐ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

November 20, 2003

Date


Signature

650-326-2400

Telephone Number

Robert C. Colwell

Typed or printed name

27, 431

Registration Number, if applicable

Townsend and Townsend and Crew LLP

Address

Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

Address

- Enclosures: ☒ Fee Payment
- ☒ Reply (copy of response as previously filed, together with Patent Office Auto-Reply form)
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☒ Request for RCE

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

November 20, 2003

Date


Signature

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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants and by any other party who is presenting statements concerning the cause of delay.

November 20, 2003

Date



Signature

Robert C. Colwell, Reg. No. 27,431

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

On August 20, 2003, counsel for Assignee filed an Amendment Under 37 CFR 1.116, together with a Petition to Extend Time (for two months) and transmittal papers, via facsimile to the fax number listed on page 9 of the Final Action, that is, 703-872-9313, which is designated for After Final communications. An Auto-Reply Facsimile Transmission form was received from the Patent Office to acknowledge receipt of the response. The Auto-Reply form states in part, "...Applicants are advised to retain this receipt in the unlikely event that *proof of this facsimile transmission* is necessary." (Emphasis added.) A copy of this Auto-Reply confirmation is attached hereto.

On October 14, 2003, counsel received a telephone call from Examiner Brandon Bowers enquiring as to whether a response to the Final Action dated March 28, 2003, had been filed. The Examiner was advised by counsel that a Section 1.116 amendment had in fact been filed via facsimile transmission on August 20, 2003. The Examiner indicated he had not seen the response and requested that a copy be faxed to him as soon as possible. Counsel complied by immediately faxing the response on the same day, together with a copy of the Patent Office Auto-Reply confirmation of receipt of the original response on August 20.

On October 20, 2003, counsel's office again received a telephone call from Examiner Bowers. He stated he had received the copy of the response as faxed on October 14, but that he had never received the original August 20 filing. He asked if we had filed a Notice of Appeal, and was advised that we had not. Examiner Bowers said that he would issue an Advisory Action based upon the response received October 14, and but that he would also issue a Notice of Abandonment. The Advisory Action and Notice of Abandonment were issued on October 23 and have been received by counsel.

Counsel believes, based upon the Patent Office Auto-Reply confirmation, that the response was in fact received by the U.S. Patent Office but that it was somehow misplaced and never received by the Examiner. Based upon the evidence, counsel respectfully petitions that the Amendment Under 37 CFR 1.116 as submitted via facsimile on August 20 and subsequently acknowledged via Auto-Reply be considered as timely filed. Counsel believes the delay to be unavoidable and respectfully petitions that the Patent Office revive the application for further prosecution as soon as possible.

(Please attach additional sheets if additional space is necessary)

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